

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
ABILENE DIVISION

ERWIN D. SHIPLEY, JR.,)	
TDCJ ID No. 1540298,)	
Previous ID No. 80450,)	
)	
Plaintiff,)	
)	
V.)	CIVIL ACTION NO.
)	1:08-CV-133-C
OFFICER STATTON, <i>et al.</i> ,)	ECF
)	
Defendant(s).)	

ORDER

The United States Magistrate Judge entered a Report and Recommendation on March 3, 2009. No objections have been filed.

This Court has made an independent review of the record in this case and finds that the Magistrate Judge's findings, conclusions and recommendation should be adopted and accepted.

It is, therefore, ORDERED that Plaintiff's civil rights complaint and all claims alleged therein are **DISMISSED WITH PREJUDICE AS FRIVOLOUS**.

Judgment shall be entered accordingly.

This dismissal shall count as a qualifying dismissal under 28 U.S.C. § 1915(g) and *Adepegba v. Hammons*, 103 F.3d 383 (5th Cir. 1996). Dismissal of this action does not release Plaintiff or the institution where he is incarcerated from the obligation to pay any filing fee previously imposed. *See Williams v. Roberts*, 116 F.3d 1126, 1128 (5th Cir. 1997).


Any pending motions are **DENIED**.

A copy of this order shall be sent by first class mail to all parties appearing *pro se* and to any attorney of record by first class mail or electronic notification.

Plaintiff is advised that if he appeals this Order, he will be required to pay the appeal fee of \$455.00 pursuant to the PLRA, and he must submit an application to proceed *in forma pauperis* and a 6-month Certificate of Inmate Trust Account at the same time he files his notice of appeal.

SO ORDERED.

Dated May 27, 2009.



SAM R. CUMMINGS
UNITED STATES DISTRICT COURT